

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

<hr/>)	
Notice of Proposed Rulemaking)	
)	
Appropriate Regulatory Treatment for)	CS Docket No. 02-52
Broadband Access to the Internet Over)	
Cable Facilities)	
<hr/>)	

COMMENTS OF THE CITY OF FORT WORTH

These comments are filed by the City of Fort Worth, Texas in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, Fort Worth believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act.

These comments will also provide information regarding the status of cable modem service in our community.

1. Our community and the status of cable modem service.

Fort Worth is a city of 545,000 residents. It is served by Charter Communications, which has approximately 63,500 subscribers. The cable system serving our community offers subscribers multiple tiers of television programming, Pay Per View and Video on Demand. Cable modem service is also offered in our community

2. Our franchise and cable modem service.

Our franchise was issued in 1981, transferred in 1996 and 1999. The franchise required the cable operator to provide cable modem service where economically feasible. Our franchise states: 12. Cable Modem, High-Speed

Data and Internet Services. The Federal Telecommunications Act of 1996 modified the definition of “cable services” in the Federal Cable Act (Title VI of the Communications Act of 1934, 47 USC Section 115 and following). The change addresses cable companies’ ability to provide Enhanced, Advanced Cable Services over a Cable System as a cable service (and not as a telephone service, with accompanying telephone regulations) The Franchise predates and does not reflect this legislative change. Company intends to provide Enhanced, Advanced Cable Services where economically feasible. 12.1 To remove any uncertainty on Company’ authority to provide Enhanced, Advanced Cable Services the parties agree that Company has the authority to provide Enhanced, Advanced Cable Services under the Franchise and that the revenues therefrom shall be included in gross revenues for the purpose of computing and paying cable franchise fees. The franchise agreement goes on to define Enhanced, Advanced Cable Services to be: enhanced services, information services, Internet protocol (IP) telephony, high speed data service, Internet access and Internet service (such as that of an Internet service provider). Pursuant to that provision, we are entitled to receive franchise fees on cable modem service. We received \$139,783 in cable modem franchise fees in 2001. These payments were made in consideration of the grant of the franchise. We estimate that we will lose \$ 891,567 over the next five (5) years if we cannot charge a fee on revenues from cable modem service.

3. How we regulate cable modem service.

We regularly receive complaints from customers regarding the services provided by cable operators. These include complaints about traditional video programming services and about cable modem services. Over the last 12 months we have received hundreds of complaints about customer service issues, 30 of these were about cable modem service. Responding to these complaints requires significant staff time and effort.

There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects:

- Cable modem service is marketed jointly with cable service.
- When we get complaints about promotional practices, the complaint may apply to both services.
- A single bill is sent for cable modem and cable services, so billing complaints involve both.

- A customer may call a single location to schedule installation of cable service and cable modem service, and customer complaints about installations and missed appointments may relate to both services.

As a result, when one service has problems, the quality of the other service can be affected. Customers are advised on their bill by the cable operator that they can call our office with complaints, and as far as we can tell, at no time does the operator advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In our view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints we receive, and because of its close tie to video services.

4. Our community and broadband deployment.

Our community believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. We also believe that in order to achieve the promise of broadband, broadband has to be available to the entire community, as far as possible. We want to avoid knowledge and opportunity gaps created because some parts of the community have access to broadband information, while others do not.

To that end, our community devotes significant resources to take advantage of the information highway and to extend its benefits to all. Public libraries and schools offer the citizens of Fort Worth access to Internet services free of charge. Cable modem fees go into the general fund and will help support Internet access at community centers throughout the City. If we lose those funds, it will be more difficult to protect consumers, and to promote broadband deployment in this community.

Respectfully submitted,

Randy Westerman
Manager/ Cable Services
City of Fort Worth
June 14, 2002